

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CHRIS DEYERLE,

Petitioner,

vs.

LA GRANT, *et al.*,

Respondents.

3:12-cv-00125-RCJ-VPC

ORDER

This is a pro se petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254 (ECF #6). The court previously granted in part and denied in part respondents' motion to dismiss (ECF #27). On September 30, 2014, the court denied petitioner's motion for a stay in this case so that he could attempt to return to state court to exhaust his unexhausted grounds (ECF #45). Now before the court is petitioner's motion for appointment of counsel (ECF #43).

There is no constitutional right to appointed counsel in a federal habeas corpus proceeding, and thus the decision to appoint counsel is generally discretionary. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986). This court has already denied petitioner's motion for appointment of counsel (ECF #5) and denied reconsideration of that order (ECF #13). Petitioner has not presented a change in circumstances that would warrant counsel at this time.

IT IS THEREFORE ORDERED that petitioner's motion for appointment of counsel (ECF #43) is **DENIED**.

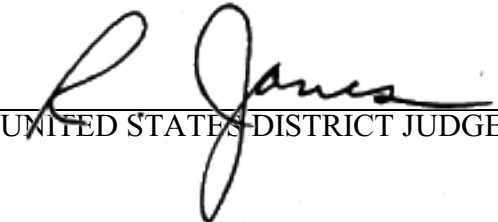
1 **IT IS FURTHER ORDERED** that petitioner's motion for status check on motion for stay and
2 abeyance (ECF #42) is **DENIED** as moot.

3 **IT IS FURTHER ORDERED** that, in light of the denial of the motion for counsel, petitioner
4 shall have **thirty (30) days** from the date of this order to either: **(1)** inform this court in a sworn
5 declaration that he wishes to dismiss the unexhausted grounds for relief in his federal habeas petition
6 and proceed on the exhausted grounds; **OR (2)** inform this court in a sworn declaration that he wishes
7 to dismiss this petition in order to return to state court to exhaust his unexhausted claims. **Failure to**
8 **comply will result in the dismissal of this action.**

9 **IT IS FURTHER ORDERED** that if petitioner elects to abandon his unexhausted grounds,
10 respondents shall have **thirty (30) days** from the date petitioner serves his declaration of abandonment
11 in which to file an answer to petitioner's remaining grounds for relief. The answer shall contain all
12 substantive and procedural arguments as to all surviving grounds of the petition, and shall comply with
13 Rule 5 of the Rules Governing Proceedings in the United States District Courts under 28 U.S.C. §2254.

14 **IT IS FURTHER ORDERED** that petitioner shall have **thirty (30) days** following service of
15 respondents' answer in which to file a reply.

16 Dated this 18th day of December, 2014.

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20 UNITED STATES DISTRICT JUDGE
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